



August 10, 2018

Mr. Robert Courtnage  
Designated Federal Official  
EPA Science Advisory Board  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**Re: Asbestos; Significant New Use Rule (EPA-HQ-OPPT-2018-0159)**

Dear Mr. Courtnage,

The American Association for Justice (AAJ), hereby submits comments in response to the Environmental Protection Agency's (EPA) proposed "Asbestos; Significant New Use rule" published in the Federal Register on June 11, 2018.<sup>1</sup>

AAJ, with members in the United States, Canada, and abroad, is the world's largest trial bar. It was established in 1946 to safeguard victims' rights and strengthen the civil justice system. AAJ members represent victims sickened by asbestos exposure and asbestos-related diseases and their families. We now provide our input for the EPA's review of the significant new use rule for asbestos.

AAJ believes the evidence of asbestos' deadly health effects justifies a complete ban on new uses of asbestos and anything short of that puts consumers, workers and their families at risk. As a result, EPA should revise its proposal to prohibit all new uses of asbestos. As proposed, the rule provides too little protection against deadly asbestos exposure because it allows for workers and others to continue to be exposed.

In 1989, EPA published a ban on all uses of asbestos. Significant portions of that ban were invalidated by the 5<sup>th</sup> Circuit Court of Appeals.<sup>2</sup> EPA's ban on asbestos remains in effect for new uses of asbestos initiated for the first time after August 25, 1989.<sup>3</sup> Currently, manufacturers and importers face no limits on reviving uses of asbestos that were in effect on August 25, 1989, but which have since been discontinued. Under the proposed rule, manufacturers and importers seeking to revive such a use must notify EPA of their intent to do so.

This proposal is an improvement over current law, but it is woefully inadequate to protect the public from the unreasonable risks posed by any exposure to asbestos. AAJ supports EPA's effort to require manufacturers and importers to notify the agency if they intend to resume currently discontinued uses of asbestos. Nonetheless, AAJ is concerned that the proposed rule

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<sup>1</sup> 83 Fed. Reg. 26922

<sup>2</sup> *Corrosion Proof Fittings v. EPA*, 947 F.2d 1201 (5<sup>th</sup> Cir. 1991).

<sup>3</sup> See 83 Fed. Reg. 26925



suggests EPA may permit resumption of these uses, on a use-by-use basis, after receiving the notices required by the proposed rule. There is simply no basis for reviving discontinued uses of asbestos. To the extent EPA's proposal would permit these uses of asbestos in the future, it should be modified.

It is by now beyond debate that all exposure to asbestos fibers pose deadly risks to the public. There is no safe level of asbestos exposure. Any new use of asbestos – regardless of whether the exposure levels to workers and the public is considered low-- would contribute to the cumulative disease risk from asbestos. Given what we know about the deadly effects of asbestos and the catastrophic consequences of past exposures, there is no public health justification for allowing manufacturers to revive currently discontinued asbestos uses.

Canada has proposed a ban on all uses of asbestos.<sup>4</sup> The proposed Canadian ban is broader and more protective of public health than the proposed SNUR. EPA should follow Canada's lead and ban all currently discontinued uses of asbestos.

AAJ appreciates the opportunity to submit these comments in repose to EPA "Asbestos-Significant New Use Rule." If you have any questions or comments, please contact Sarah Rooney, Senior of Federal and Regulatory Affairs, at (202) 944-2805.

Sincerely,

Elise R. Sanguinetti  
President  
American Association

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<sup>4</sup> <http://www.gazette.gc.ca/rp-pr/p1/2018/2018-01-06/html/reg3-eng.html>